

LEGISLATURE OF NEBRASKA  
NINETY-SIXTH LEGISLATURE  
FIRST SESSION  
**LEGISLATIVE BILL 46**

Introduced by Brashear, 4

Read first time January 7, 1999

Committee: Judiciary

A BILL

1 FOR AN ACT relating to coroners; to amend sections 28-1820, 48-135,  
2 and 71-1341, Reissue Revised Statutes of Nebraska, and  
3 sections 71-605 and 71-1339, Revised Statutes Supplement,  
4 1998; to require autopsies on minors as prescribed; to  
5 harmonize provisions; to provide a duty for the Revisor  
6 of Statutes; and to repeal the original sections.  
7 Be it enacted by the people of the State of Nebraska,

1           Section 1. (1) The county coroner or coroner's physician  
2 shall perform, at county expense, an autopsy on any person less  
3 than nineteen years of age who dies a sudden death if (a) the death  
4 was not caused by a readily recognizable disease or (b) the death  
5 occurred under suspicious circumstances.

6           (2) The county coroner or coroner's physician shall  
7 attempt to establish, by a reasonable degree of medical certainty,  
8 the cause or causes of the death, and shall thereafter certify the  
9 cause or causes of death to the county attorney.

10           Sec. 2. Section 23-1820, Reissue Revised Statutes of  
11 Nebraska, is amended to read:

12           23-1820. In each county there is hereby created the  
13 office of coroner's physician, who shall be appointed by the  
14 coroner of the county and be removable by the coroner, at a salary  
15 or schedule of fees or both to be set by the county board and to be  
16 paid by the county. Such physician shall certify the cause of  
17 death in every case of death in such county not certified by an  
18 attending physician and shall perform or cause to be performed an  
19 autopsy when requested by the coroner or as provided in section 1  
20 of this act. Such physician shall perform such other services in  
21 aid of the coroner as shall be requested by the coroner and shall  
22 be reimbursed for mileage at the rate provided in section 81-1176  
23 for each mile actually and necessarily traveled by the most direct  
24 route, while in the performance of such physician's duties.

25           Sec. 3. Section 48-135, Reissue Revised Statutes of  
26 Nebraska, is amended to read:

27           48-135. ~~In~~ Except as provided in section 1 of this act,  
28 in all death claims, where the cause of death is obscure or

1     disputed, any interested party may require an autopsy, the cost of  
2     such autopsy to be borne by the party demanding the same.

3             Sec. 4.     Section 71-605, Revised Statutes Supplement,  
4     1998, is amended to read:

5             71-605. (1) The funeral director and embalmer in charge  
6     of the funeral of any person dying in the State of Nebraska shall  
7     cause a certificate of death to be filled out with all the  
8     particulars contained in the standard form adopted and promulgated  
9     by the Department of Health and Human Services Finance and Support.  
10    Such standard form shall include a space for certificate of veteran  
11    status and the period of service in the armed forces of the United  
12    States as defined in section 80-401.01 and a statement of the cause  
13    of death made by a person holding a valid license as a physician  
14    who last attended the deceased. The standard form shall also  
15    include the deceased's social security number. Death and fetal  
16    death certificates shall be completed by the funeral directors and  
17    embalmers and physicians for the purpose of filing with the  
18    department and providing child support enforcement information  
19    pursuant to section 43-3340.

20            (2) The physician shall have the responsibility and duty  
21    to complete and sign in his or her own handwriting, within  
22    twenty-four hours from the time of death, that part of the  
23    certificate of death entitled medical certificate of death. In the  
24    case of a death when no person licensed as a physician was in  
25    attendance, the funeral director and embalmer shall refer the case  
26    to the county attorney for a death certificate.

27            No cause of death shall be certified in the case of the  
28    sudden and unexpected death of a child between the ages of one week

1 and three years ~~unless~~ until an autopsy is performed at county  
2 expense by a qualified pathologist, ~~unless the parents or guardian~~  
3 ~~signs a written waiver of the right to autopsy pursuant to section~~  
4 1 of this act. The parents or guardian shall be notified of the  
5 results of the autopsy by their physician, community health  
6 official, or county coroner within forty-eight hours. The term  
7 sudden infant death syndrome shall be entered on the death  
8 certificate as the principal cause of death when the term is  
9 appropriately descriptive of the pathology findings and  
10 circumstances surrounding the death of a child.

11 If the circumstances show it possible that death was  
12 caused by neglect, violence, or any unlawful means, the case shall  
13 be referred to the county attorney for investigation and  
14 certification. The county attorney shall, within twenty-four hours  
15 after taking charge of the case, state the cause of death as  
16 ascertained, giving as far as possible the means or instrument  
17 which produced the death. All death certificates shall show  
18 clearly the cause, disease, or sequence of causes ending in death.  
19 If the cause of death cannot be determined within the period of  
20 time stated above, the death certificate shall be filed to  
21 establish the fact of death. As soon as possible thereafter, and  
22 not more than six weeks later, supplemental information as to the  
23 cause, disease, or sequence of causes ending in death shall be  
24 filed with the department to complete the record. For all  
25 certificates stated in terms that are indefinite, insufficient, or  
26 unsatisfactory for classification, inquiry shall be made to the  
27 person completing the certificate to secure the necessary  
28 information to correct or complete the record.

1           (3) A completed death certificate shall be filed with the  
2 Department of Health and Human Services Finance and Support within  
3 five business days after the date of death. If it is impossible to  
4 complete the certificate of death within five business days, the  
5 funeral director and embalmer shall notify the department of the  
6 reason for the delay and file the certificate as soon as possible.

7           (4) Before any dead human body may be cremated, a  
8 cremation permit shall first be signed by the county attorney, or  
9 by his or her authorized representative as designated by the county  
10 attorney in writing, of the county in which the death occurred on a  
11 form prescribed and furnished by the Department of Health and Human  
12 Services Finance and Support.

13           (5) A permit for disinterment shall be required prior to  
14 disinterment of a dead human body. The permit shall be issued by  
15 the Department of Health and Human Services Finance and Support to  
16 a licensed funeral director and embalmer upon proper application.  
17 The request for disinterment shall be made by the next of kin of  
18 the deceased, as listed in section 71-1339, or a county attorney on  
19 a form furnished by the department. The application shall be  
20 signed by the funeral director and embalmer who will be directly  
21 supervising the disinterment. When the disinterment occurs, the  
22 funeral director and embalmer shall sign the permit giving the date  
23 of disinterment and file the permit with the department within ten  
24 days of the disinterment.

25           (6) When a request is made under subsection (5) of this  
26 section for the disinterment of more than one dead human body, an  
27 order from a court of competent jurisdiction shall be submitted to  
28 the Department of Health and Human Services Finance and Support

1 prior to the issuance of a permit for disinterment. The order  
2 shall include, but not be limited to, the number of bodies to be  
3 disinterred if that number can be ascertained, the method and  
4 details of transportation of the disinterred bodies, the place of  
5 reinterment, and the reason for disinterment. No sexton or other  
6 person in charge of a cemetery shall allow the disinterment of a  
7 body without first receiving from the department a disinterment  
8 permit properly completed.

9 (7) No dead human body shall be removed from the state  
10 for final disposition without a transit permit issued by the  
11 funeral director and embalmer having charge of the body in  
12 Nebraska, except that when the death is subject to investigation,  
13 the transit permit shall not be issued by the funeral director and  
14 embalmer without authorization of the county attorney of the county  
15 in which the death occurred. No agent of any transportation  
16 company shall allow the shipment of any body without the properly  
17 completed transit permit prepared in duplicate.

18 (8) The interment, disinterment, or reinterment of a dead  
19 human body shall be performed under the direct supervision of a  
20 licensed funeral director and embalmer, except that hospital  
21 disposition may be made of the dead human body of a stillborn  
22 infant with due respect for the stillborn infant and in accordance  
23 with existing law when requested by the parents or legal guardian.

24 (9) All transit permits issued in accordance with the law  
25 of the place where the death occurred in a state other than  
26 Nebraska shall be signed by the funeral director and embalmer in  
27 charge of burial and forwarded to the Department of Health and  
28 Human Services Finance and Support within five business days after

1 the interment takes place.

2           Sec. 5.     Section 71-1339, Revised Statutes Supplement,  
3 1998, is amended to read:

4           71-1339. The right to control the disposition of the  
5 remains of a deceased person, subject to section 1 of this act and  
6 unless other directions have been given by the decedent, vests in  
7 the following persons in the order named: (1) The surviving spouse;  
8 (2) if the surviving spouse is incompetent or not available, or if  
9 there be no surviving spouse, adult child of the decedent; (3) a  
10 surviving parent of the decedent; (4) an adult brother or sister of  
11 the decedent; (5) an adult person in the next degrees of kindred in  
12 the order named by the laws of Nebraska as entitled to succeed to  
13 the estate of the decedent; (6) the State Anatomical Board; or (7)  
14 the county board of the county in which death occurred.

15           The liability for the reasonable cost of interment  
16 devolves jointly and severally upon all kin of the decedent in the  
17 same degree of kindred and upon the estate of the decedent and, in  
18 cases when the county board has the right to control disposition of  
19 the remains under subdivision (7) of this section, upon the county  
20 in which death occurred from funds available for such purpose.

21           Sec. 6.     Section 71-1341, Reissue Revised Statutes of  
22 Nebraska, is amended to read:

23           71-1341. A written authorization for an autopsy given by  
24 the survivor or survivors, as enumerated in section 71-1339, having  
25 the right to control the disposition of remains may, subject to  
26 section 1 of this act and when not inconsistent with any directions  
27 given by the decedent pursuant to section 71-1340, include  
28 authorization for the removal of any specifically named organ or

1 organs for therapeutic or scientific purposes. Pursuant to any  
2 such written authorization, any structure or organ may be given to  
3 the Director of Regulation and Licensure or to any other  
4 therapeutic service operated by any nonprofit agency approved by  
5 the Director of Regulation and Licensure, including, but not  
6 limited to, a teaching institution, university, college, legally  
7 licensed hospital, nonprofit blood bank, nonprofit artery bank,  
8 nonprofit eye bank, or nationally recognized nonprofit hormone and  
9 pituitary program. The person or persons performing any autopsy  
10 shall do so within a reasonable time and without delay and shall  
11 not exceed the removal permission contained in such written  
12 authorization, and the remains shall not be significantly altered  
13 in external appearance nor shall any portion thereof be removed for  
14 purposes other than those expressly permitted in this section.

15           Sec. 7. The Revisor of Statutes shall assign section 1  
16 of this act to Chapter 23, article 18.

17           Sec. 8. Original sections 23-1820, 48-135, and 71-1341,  
18 Reissue Revised Statutes of Nebraska, and sections 71-605 and  
19 71-1339, Revised Statutes Supplement, 1998, are repealed.